

REMARKS

Claim 1 is pending within this application. No claims have been added, amended, or deleted.

The Office has now rejected the pending claim under 35 U.S.C. § 102(b) as being anticipated by Jeo. Applicants are confused by such a basis of rejection, particularly the finding of anticipation over the pending claim, as Jeo merely discusses the benefits of humate and humic matter within soils (which Applicants have not disagreed with; humic matter is generally needed for nutrient, etc., purposes, such as those described within this cited message reply). However, Jeo clearly states that humic matter (not specifically humic acid) provides benefits such as aid in “retaining water and opening the structure of the soil to allow easier access by plant roots” and that soils that are “naturally low of organics, like a sandy soil, will benefit more than naturally high organic soils”. Thus, the inclusion of humic matter within soils, and in particular sandy soils, helps to increase the ability of the soil to provide water to roots and, in particular, to retain such water therein. How is this an anticipatory teaching of the pending claim? Such a claim reads, as follows:

“A synthetic hydrophobic sand formulation exhibiting a penetration period of at least 9 seconds for a drop of 2 molar ethanol under a minimal ethanol drop test wherein at least a portion of said sand formulation is treated with humic acid.”

Jeo specifically states and at worst implies that a humic matter-treated soil is not hydrophobic in nature, but aids in water accessibility and retention. An hydrophobic soil would clearly not provide such benefits. Facilitation of access to water is not exactly evident when the penetration period of a treated soil, or sandy soil as now claimed, is inordinately long. There is clearly a significant difference between applying a humic matter source (such

as manure, as taught within Jeo) in order to aid in crop growth, and providing an hydrophobic sandy soil in which growth of plants would be extremely difficult, if not impossible. Jeo, contrary to the position of the Office, does not provide any teaching, nor fair suggestion, for the production of a sand (not just a sandy soil) that is hydrophobic in nature to the level now claimed. If anything, Jeo teaches that the addition of humate and/or humic matter to sandy soils is necessary to impart such hydrophilic properties thereto, and not hydrophobicity. Hence, it is evident that Jeo's disclosure fails to support the Office's current position. It is further evident that hydrophobicity is neither a need nor a want of Jeo; if such were the case, the plant life to be grown within soils treated in the manner disclosed by the author would not survive. Thus, the Office's sustenance of any rejection over the claimed invention, anticipatory or otherwise, is improper. Reconsideration and withdrawal of such an improper rejection are therefore earnestly solicited.

CONCLUSION

In view of all of the previous remarks, it is respectfully requested that the pending claim is in condition for allowance and thus that this application be passed on to issue.

Respectfully requested,

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CERTIFICATE OF MAILING

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